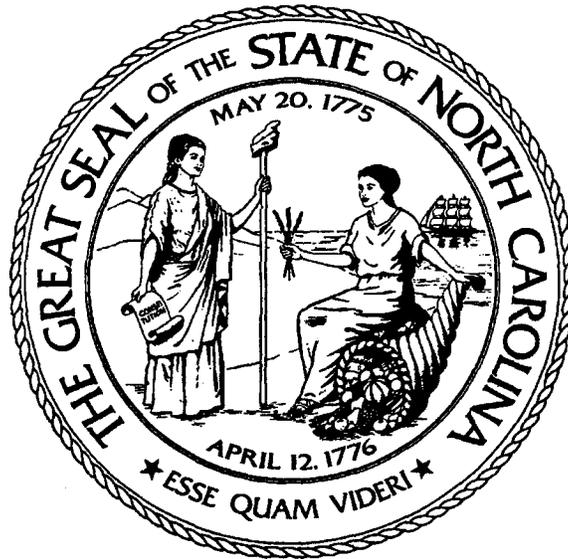


**HOUSE SELECT COMMITTEE
FOR PERSONNEL REVIEW
REPORT**



**1997 GENERAL ASSEMBLY
OF NORTH CAROLINA
1998 SESSION**

NORTH CAROLINA GENERAL ASSEMBLY
STATE LEGISLATIVE BUILDING
RALEIGH 27611



August 6, 1998

TO THE 1997 GENERAL ASSEMBLY (1998 REGULAR SESSION):

The House Select Committee for Personnel Review submits to you the attached final report adopted on August 5, 1998. This report contains our findings and recommendations concerning the application, administration, practice, or violation of Chapter 126 of the General Statutes of North Carolina or any other statutes or applicable law relative to the rights, duties and obligations of any employee of the State of North Carolina.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Carolyn B. Russell". The signature is written in a cursive style with a large, looping initial "C".

Representative Carolyn B. Russell
Chair, House Select Committee for Personnel Review

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INTRODUCTION

The North Carolina General Assembly House Select Committee for Personnel Review was created by Speaker Harold J. Brubaker on March 4, 1997. The Committee was charged with the duty of examining witnesses, documents and any other information it deemed necessary concerning the application, administration, practice, or violation of Chapter 126 of the General Statutes of North Carolina or any other statutes or applicable law relative to the rights, duties and obligations of any employee of the State of North Carolina.

The Committee has met approximately 23 times and heard testimony from approximately 46 witnesses for the purpose of investigating a \$100,000.00 settlement with Algie D. Toomer, Jr., and the Department of Transportation for alleged violations of State personnel policy and State law.

The Committee wishes to express its full support and admiration for law enforcement personnel throughout the State of North Carolina. We recognize that the overwhelming majority of those individuals whose duty it is to protect our citizens from harm are fine, truthful and honorable individuals who deserve our respect and gratitude for their dedication and sacrifice. Any characterization of the North Carolina House of Representatives, The House Select Committee for Personnel Review or their members' motives which does not recognize that support is untrue.

The Committee has been disappointed in the conduct of certain representatives of the Police Benevolent Association who raised serious allegations of governmental misconduct and then refused to testify to clarify discrepancies between their testimony and that of other witnesses. Nevertheless, the Committee has diligently pursued the truth of the matter of the \$100,000.00 Toomer settlement.

The references following the findings and recommendations are to the transcripts of individual testimony on the date cited. These transcripts are filed with the Committee's minutes in the Legislative Library.

FINDINGS

LEGAL ANALYSIS AND SETTLEMENT AGREEMENT BY THE GOVERNOR'S OFFICE

Finding #1

Based on the totality of the evidence reviewed by the Committee, the Algie D. Toomer settlement was handled inappropriately by the Governor's office. The representatives of the Governor interposed themselves at the behest of both the Police Benevolent Association (PBA) and legislators into a settlement with Mr. Toomer after the Department of Transportation (DOT), and after the Attorney General's office had reviewed and rejected a demand from Mr. Toomer's attorney. (Testimonies of A. Vanore, 5/5/97, pp. 8-69; M. McAllister and A. Adams, 7/2/97, pp. 4 - 64; A. Felton, 5/19/97, pp. 150-172 and 5/20/97, pp. 4-66; B. Pittman, 5/8/97, pp. 5-55 and 1/15/98, pp. 116-212.)

Finding #2

The recommendations of the Attorney General and the Department of Transportation, that there was insufficient factual or legal basis for the settlement, were ignored by the Governor's office. (Testimony of A. Vanore, Jr., 5/5/97, p. 40.)

Finding #3

The Governor's office proceeded with the drafting and execution of a settlement agreement with virtually no oversight by the Attorney General's office. (Testimonies of A. Vanore, Jr., 5/5/97, p.40; and B. Pittman 5/18/97, pp. 36-40.)

Finding #4

The Governor's office failed to verify or even minimally substantiate the allegations by the PBA that the State was potentially liable to Mr. Toomer. (Testimony of B. Pittman, 5/8/97 pp. 50-51, 1/15/98, pp. 124-133.)

LEGAL ANALYSIS AND SETTLEMENT AGREEMENT BY THE GOVERNOR'S OFFICE (CONTINUED)

Finding #5

The Committee finds that the legal analysis performed by the Governor's office of Mr. Toomer's potential claims was flawed because of misinformation provided by the PBA and others.

(Testimony of B. Pittman 1/15/98, pp.124-153.)

MR. TOOMER'S EMPLOYMENT AND DISABILITY CLAIM

Finding #6

The Committee finds that Mr. Toomer was not held to the same standards as other DMV employees.

(Testimonies of J. Arrowood, 11/20/97, p. 94-124; A. Killens, 5/19/97, 82-88; A. L. Felton, 5/19/97, pp. 152-164 and 5/20/97, pp. 26-28.)

Finding #7

The Committee finds that Mr. Toomer allowed his association with DMV Officials to result in his obtaining special job assignments, rank, and treatment not commensurate with his experience or job classification. (Testimonies of J. Arrowood, 11/20/97, pp. 97-101, 120-124; A.L. Felton, 5/19/97, pp. 152-164, and 5/20/97, pp. 26-28; A. Killens, 5/19/97, pp. 111-112 and 139-141.)

In addition, several discrepancies were found between Mr. Toomer's time sheets and travel records.

The committee notes that these discrepancies were never thoroughly investigated by the DOT or the SBI. (Testimonies of A. L. Felton, 5/19/97, pp.161-163; S. Williams, 5/22/97, pp. 46-52; J.

Arrowood, 11/21/97, pp. 9-10; A. L. Felton, 11/21/97, pp.152-154.) Moreover, time sheets and travel records were never fully disclosed to the Committee.

MR. TOOMER'S EMPLOYMENT AND DISABILITY CLAIM (CONTINUED)

Finding #8

The Committee finds that there is a suspicious coincidence about the timing of Mr. Toomer's disability claim in 1995-1996 as it is close to the timing of Mr. Toomer's proposed transfer and is of the opinion that the later triggered the former. (Testimony of A.L. Felton, 5/19/97, pp. 165-170 and 5/20/97, pp. 31-33.)

Finding #9

Mr. Toomer's 1995-96 disability application did not receive a thorough review by a panel of competent medical professionals. As a result the Committee proposed legislation requiring all disability claims to go before the Medical Review Board. (Testimonies of S. Lassiter, 10/27/97, pp. 99-102; and M. Barnes, 11/20/97, pp. 7-11.)

DEPARTMENT OF MOTOR VEHICLES

Finding #10

The Committee finds that an internal investigation conducted by the Department of Motor Vehicles (DMV) was quashed by Mr. Killens. The committee also heard conflicting testimony as to whether Mr. Aikens may have been involved in quashing the investigation. (Testimonies of B. Pittman, 1/15/98, pp. 126-128; W. Heath, 11/20/97, p. 19; M. Brock, 11/20/97, pp. 45-47; F. Aikens, 10/27/97, p. 162; J. Coman, 10/27/97, p. 22-23; A. Killens, 5/19/97, pp. 119-124 and 140-143.)

DEPARTMENT OF MOTOR VEHICLES (CONTINUED)

Finding #11

Audit findings and the testimonies of Legislators Mary McAllister and Alma Adams, DOT Secretary Garrett, and Bill Pittman support the Committee's conclusion that during 1995-1997, the DMV was rife with management, patronage, personnel, and racial problems. No action was taken by the Governor's office or the DOT to correct these problems during that period. (Testimonies of M. McAllister and A. Adams, 7/2/97, pp. 4 - 64; G. Garrett 6/18/97, pp. 6-64 and 1/15/98, pp. 69-100; B. Pittman, 5/8/97, pp. 5-55 and 1/15/98, pp. 116-212.)

POLICE BENEVOLENT ASSOCIATION

Finding #12

On July 9, 1997, a PBA statement read by Mr. McGuinness stated, "Mr. Toomer has already provided substantial information to the North Carolina State Bureau of Investigation and to the Department of Transportation." That statement was false. Letters referred to by the Committee's chair indicated that, on several occasions, Mr. Toomer and his representatives declined the opportunity to submit to an interview by the State Bureau of Investigation. (Statement delivered by M. McGuinness, 7/9/97, p. 2, Testimony of M. McGuinness, 2/25/98, pp. 148-150.)

STATE PERSONNEL SYSTEM

Finding #13

The Committee found that the Office of State Personnel had virtually no involvement in the events which led to the settlement agreement with Mr. Toomer, and that the present system -- in which not all cases are grievable to the State Personnel Commission and not all settlements involving employment disputes must be approved by the Commission -- may have contributed to the chaotic circumstances which led to the ill advised and unjustified settlement. (Testimony of R. Penny, 10/28/97, pp. 20-22)

Finding # 14

The Committee finds that lay members of the State Personnel Commission do not always possess the background and experience necessary to adequately address the complex legal and policy issues raised in cases brought before the Commission. (Testimony of R. Penny, 10/28/97, pp.18-19.)

As a result of this finding the Committee recommended legislation to reorganize the State Personnel Commission. (See Recommended Action By The Legislature, Recommendation #3, p. 14 of this report.)

RECOMMENDATIONS TO THE GOVERNOR'S OFFICE

1. In response to DMV's management, personnel, patronage and racial problems (*Finding #11*), the Committee recommends a follow-up report on the implementation status of recommendations made in the April 1996, MGT of America report and the KMPG report released by the State Auditor in May, 1998. The Governor's Office should report on the implementation status by February 1, 1999, to the Joint Legislative Commission on Governmental Operations, and the Appropriations Sub-Committee on Transportation, with copies sent to members of the 1997 House Select Committee for Personnel Review.
2. In response to the Governor's Office's involvement with Mr. Toomer's settlement, (*Findings #1, #2, #3, #4, #5*), the Committee recommends a policy be put in place by executive order stipulating that the Governor's office will no longer involve itself in legal settlements with any State employee, not employed in the Governor's office, absent a specific written request for assistance from the Attorney General.
3. In response to improper quashing of the internal investigation of Mr. Toomer's alleged illegal use of State property (*Finding #10*), the Committee recommends that State department, agency and institution heads alert all State employees to the provisions of G.S. § 114-15.1 at the outset of their employment and periodically thereafter. General Statute § 114-15.1 requires that any State employee, who receives information or evidence of various crimes including arson, damage to, theft of, embezzlement or misuse of State personal or real property, to report the information or evidence to the employee's immediate supervisor within three (3) days of receipt. The supervisor in turn is to report the same to the department, agency or institution head, who is to report the information or evidence to the State Bureau of Investigation within 10 days of the department, agency or institution head receiving it. The SBI may, if it deems appropriate, conduct an investigation. If the investigation uncovers a possible criminal violation, the SBI reports the results of the investigation to the appropriate district attorney.

RECOMMENDATIONS TO THE GOVERNOR'S OFFICE (CONTINUED)

4. In response to improper quashing of the internal investigation concerning Mr. Toomer's alleged illegal use of State property (*Finding #10*) and the Committee's finding that there was a general reluctance by fellow DMV employees to report Toomer's preferential treatment (*Findings #6 and #7*), the Committee recommends that State department, agency and institution heads periodically alert all State employees to the provisions of G.S. § 126-84 and G.S. § 126-85. These Statutes encourage State employees to report evidence of a violation of State or federal law, rule or regulation; fraud; misappropriation of State resources; substantial or specific danger to the public health & safety; or gross mismanagement, a gross waste of monies, or gross abuse of authority. Under these Statutes employees are provided protection from intimidation, harassment, and retribution.

RECOMMENDATION TO THE ATTORNEY GENERAL'S OFFICE

In response to the Governor's Office's involvement in the settlement agreement (*Findings #1, #2, #3, #4, #5*), the Committee calls on the Attorney General's Office to file an action to set aside the agreement between Mr. Toomer and the Department of Transportation which was signed by Janice Faulkner as Commissioner of DMV, and recover the \$100,000.00 payment made in conjunction with that agreement, or report to the Committee why such action is not appropriate, since the Settlement Agreement was beyond the power of the Governor to enter into because it was inconsistent with the statutes and public policy, and based on unsubstantiated representations by the PBA.

RECOMMENDATION TO WAKE COUNTY DISTRICT ATTORNEY

In response to the numerous conflicts in testimony, the Committee shall forward the transcripts of the Committee proceedings, a synopsis of significant testimony, and documentary evidence to the office of the Wake County District Attorney. The Committee calls on the District Attorney to examine the record for the purpose of investigating whether there is probable cause to find: (1) that perjury was committed during the Committee's proceedings and that the settlement of the Toomer matter resulted from misuse of power by public officers; (2) that travel records and work time records submitted by Mr. Toomer were falsified; and (3) that there was a misuse of state property.

The Committee calls the District Attorney's attention to:

- Conflicting testimony regarding whether Fred Aikens suggested the PBA request a settlement because DOT had plenty of money. (Testimonies of Rep. McAllister, 7/2/97, p.29; F. Aikens, 5/19/97, p.52; F. Aikens, 10/27/97, pp.158-160 and p. 166.)
- Conflicting testimony as to whether Fred Aikens had responsibility for implementing a ten percent (10%) raise for Mr. Toomer as a result of the Hillsborough agreement. (Testimonies of F. Aikens, 10/27/97, pp. 159-160; F. Aikens, 5/19/97, pp. 52-53; B. Pittman, 1/15/98, pp.145-147; A. Killens, 5/19/97, 95.)
- Conflicting and perjurious testimony regarding the quashing, by Mr. Killens and Mr. Aikens, of an internal investigation conducted by the Department of Motor Vehicles. (Testimonies of B. Pittman, 1/15/98, pp. 126-128; W. Heath, 11/20/97, p. 19; M. Brock, 11/20/97, pp. 45-47; F. Aikens, 10/27/97, p. 162; J. Coman, 10/27/97, p. 22-23; A. Killens, 5/19/97, pp. 119-124 and 140-143.)

RECOMMENDED ACTION BY THE LEGISLATURE

1. Because of the absence of a thorough review of Mr. Toomer's disability claims (*Finding #9*), members of the Committee introduced HOUSE BILL 1669, A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW GOVERNING THE DISABILITY INCOME PLAN OF NORTH CAROLINA TO REQUIRE THAT THE DETERMINATION OF DISABILITY BE MADE BY THE PLAN'S MEDICAL BOARD AND TO MAKE CERTAIN OTHER CHANGES. This bill would amend G.S. § 135-102(d) to provide for designation of one or more medical boards composed of not fewer than three nor more than ten physicians (now, a medical board composed of not fewer than three nor more than five physicians not eligible for benefits under the plan). Physicians retained on medical board's recommendation to examine and report on disability applicants or reexamination of disability beneficiaries will be paid fees commensurate with usual, customary, and reasonable charges. The participant in the plan would have the responsibility to provide, at no cost to the State, medical documentation of the disability sufficient to determine eligibility for benefits. New G.S. § 135-103(c) would be added to provide that a person receiving benefits who returns to contributing membership service will not become an eligible participant as defined in subsection (a) and will not be eligible for additional disability benefits on account of becoming disabled for the further performance of later state employment, while receiving benefits. General Statute § 135-105(a) and (g), concerning short-term disability benefits, would be amended to require application for benefits within 90 days, subject to extension by the Board of Trustees. A new G.S. § 135-115 would be added to create a Class 1 misdemeanor if a person knowingly makes a false statement or falsifies records in attempt to defraud the plan. The Board of Trustees would be authorized to hire private investigators to investigate reports of abuse or fraud. The Act would apply to disability applications filed on or after October 1, 1998.

RECOMMENDED ACTION BY THE LEGISLATURE (CONTINUED)

2. The Committee found that the Office of State Personnel had virtually no involvement in the events which led to the settlement agreement with Mr. Toomer, and that the present system - in which not all cases are grievable to the State Personnel Commission and not all settlements involving employment disputes must be approved by the Commission - may have contributed to the circumstances which led to the settlement (*Finding #13*). In response to that finding, members of the Committee introduced HOUSE BILL 1468, A BILL TO BE ENTITLED AN ACT CREATING THE COMMISSION TO REVIEW AND RESTRUCTURE ADMINISTRATION OF THE STATE PERSONNEL SYSTEM AND APPROPRIATING FUNDS TO THE GENERAL ASSEMBLY FOR THAT PURPOSE. This bill would create a Commission, consisting of 16 members (eight members appointed by the Speaker, including six Representatives and two members of the public who are knowledgeable of state personnel human resource matters, and eight members appointed by the President Pro Tem., including six Senators and two public members). The Commission would review the duties, functions, staffing, and organization of the Office of State Personnel (OSP), examine ways to enhance the effectiveness of OSP and improve administration of the State Personnel Act, review related matters, and propose legislation. The final report would be due to the General Assembly by the first day of the 1999 session. Appropriates \$50,000 for 1998-99 from the General Fund to the General Assembly for expense of the Commission. Effective July 1, 1998.

RECOMMENDED ACTION BY THE LEGISLATURE (CONTINUED)

3. The Committee found that the members of the State Personnel Commission do not always possess the background and experience necessary to adequately address the complex legal and policy issues raised in cases brought before the Commission (*Finding #14*). As a result of the finding, members of the Committee introduced HOUSE BILL 1469, A BILL TO BE ENTITLED AN ACT REORGANIZING THE STATE PERSONNEL COMMISSION AND AUTHORIZING THE CHAIR OF THE STATE PERSONNEL COMMISSION TO APPOINT PANELS OF ITS MEMBERS TO MAKE RECOMMENDATIONS TO THE FULL COMMISSION REGARDING THE FINAL DECISION IN CONTESTED CASES. This bill would rewrite G.S. § 126-2 to expand the State Personnel Commission from seven to nine members. Membership of the restructured Commission would include: two attorneys (one appointed on recommendation of Speaker and one on recommendation of President Pro Tem.); two persons from private business, with experience in human resource management, appointed by the Governor; two nonexempt state employees (one supervisory employee appointed on recommendation of the Speaker and one nonsupervisory employee appointed on recommendation of the President Pro Tem.); two local government employees subject to the State Personnel Act, appointed by the Governor (one supervisory employee appointed on recommendation of League of Municipalities and one nonsupervisory employee appointed on recommendation of the Association of County Commissioners); and one at-large member appointed by the Governor. Members could serve no more than two consecutive terms. A new GS § 126-4.1 would permit the chair of the State Personnel Commission to appoint four-member panels to hear contested cases, and permit the Commission to make the final agency decision upon recommendation of such panel.

RECOMMENDED ACTION BY THE LEGISLATURE (CONTINUED)

4. During the 20th century, monumental evolutionary changes have occurred with regard to personnel management systems affecting North Carolina's State employees. These changes include milestones such as the adoption of the State Personnel Act (G.S. 126) in 1949, and the 1965 establishment of a unified personnel system and the State Personnel Board (which in 1975 became the State Personnel Commission). During this time there have also been intermittent committees who have studied various aspects of management and administration of the State's personnel system. The Committee realizes that State employees are vital to the effective and efficient operation of State programs and currently a significant percentage of the State's budget is spent on employee salaries and benefits. The Committee believes that in order to prepare ourselves for the 21st century, North Carolina must position itself as a leader in recruiting and maintaining qualified State employees.

Therefore, in response to evidence presented during this investigation, the Committee recommends the creation of a Blue Ribbon Advisory Commission on the 21st Century Vision of the State's Workforce, to be staffed and funded by appropriations and allocations to the Joint Legislative Commission on Governmental Operations. The Advisory Commission should consist of legislators, experts in human resource administration from the private sector and academia, and representatives of State employees. The responsibilities of this Advisory Commission would include a survey of model public and private human resource management systems, and a complete and comprehensive diagnostic evaluation of the statutes, policies, and procedures governing State employees. The Advisory Commission shall report periodically to the Joint Legislative Commission on Governmental Operations or to a sub-committee designated by the Joint Legislative Commission on Governmental Operations.

RECOMMENDED ACTION BY THE LEGISLATURE (CONTINUED)

Specific functions of the Advisory Commission's diagnostic evaluation would include:

- Review the recommendations and implemented actions of all previous panels and committee's studying North Carolina's State personnel system;
- Review of the development of State personnel practices and an evaluation of their effectiveness;
- Review of the adequacy of these practices in providing a comprehensive and equitable system of human resources management while insuring excellent service to the public and minimizing the possibility of political intervention to only those situations where appropriate;
- Development of a method to resolve employee concerns that are not grievable; and
- Development of a method of periodic personnel system review.

The Advisory Commission should recommend, to the 2001 General Assembly, a strategic plan and appropriate legislation for reforming North Carolina's human resource management systems to provide consistent policy implementation, innovative recruitment and retention policies, and appropriate compensation levels to ensure a vital and versatile workforce in the 21st Century. The Commission should be given the latitude to employ a nationally recognized consultant to aid it in its work and should be appropriated adequate funds for this purpose. All agencies of State Government should be directed to cooperate with this study.

RECOMMENDED ACTION BY THE LEGISLATURE (CONTINUED)

5. Inasmuch as no claim was ever filed by Mr. Toomer, it is difficult to determine what kind of claim he might have had; however, based on some of the evidence, it appears that Mr. Toomer believed that he had been harassed and/or discriminated against in his employment with the DMV. If Mr. Toomer had filed a claim alleging employment discrimination under Title VII of the federal Civil Rights Act, present law does not appear to require that any specific procedure be followed if the parties decided to settle the case. The Committee believes that the settlement obtained in this case was entirely inappropriate. In recognition of the concerns surrounding the Toomer settlement, the 1997 General Assembly enacted G.S. § 114-2.4 requiring the Attorney General to review the terms of all proposed agreements entered into by the State to settle or resolve litigation or potential litigation, that involves the payment of public monies in the sum of seventy-five thousand dollars (\$75,000) or more, and to render a written opinion regarding the terms of the proposed agreement and the advisability of entering into the agreement, prior to entering into the agreement. The Committee is concerned about possible attempts to circumvent the new law or otherwise obtain inappropriate settlements. Therefore, the Committee recommends the General Statutes Commission review the law concerning settlement of disputes in which the State is a party, including the State's experience since the enactment of G.S. § 114-2.4; develop a procedure to insure that inappropriate settlements do not occur again in the future and make appropriate recommendations to the General Assembly to insure an adequate and fair review of proposed settlements.

RECOMMENDED ACTION BY THE LEGISLATURE (CONTINUED)

6. The Committee recognizes the appropriateness of legislators representing their constituency in dealing with State Government, but notes with approval, G.S. § 120-86.1 making it “unethical for a legislator to take, promise, or threaten any legislative action, as defined in G.S. § 120-47.1 (4), for the purpose of influencing or in retaliation for any action regarding State employee hirings, promotions, grievances, or disciplinary actions subject to Chapter 126 of the General Statutes.” This legislation was enacted during the 1997 Session of the North Carolina General Assembly.

7. In response to the difficulties encountered during the hearings conducted by the Committee, the Committee requests the Legislative Services Commission to review Chapter 120 to determine the necessity of strengthening the legislative power of subpoena and compelling testimony, insuring that all subpoenas issued by either Chamber or any agency of the Legislative Branch comport with constitutional and statutory requirements, and creating the crime of refusal to testify or produce papers for a legislative committee.

APPENDICES

APPENDIX A

HOUSE SELECT COMMITTEE FOR PERSONNEL REVIEW
MEMBERSHIP

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304 Glen Oak Drive
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Rep. J. Russell Capps
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Office of the Speaker
North Carolina House of Representatives
Raleigh 27601-1096

HAROLD J. BRUBAKER
SPEAKER OF THE HOUSE
38TH DISTRICT

STATE LEGISLATIVE BUILDING
PHONE: (919) 733-3451

NORTH CAROLINA HOUSE OF REPRESENTATIVES

Office of the Speaker

TO THE HONORABLE MEMBERS OF THE NORTH CAROLINA HOUSE OF REPRESENTATIVES

Section 1. Pursuant to the authority vested in me by Resolution 1. of the North Carolina House of Representatives, Session 1997, Section V, Rule 26(a), and Article 5(A), Section 120-19.1 et seq., of the North Carolina General Statutes, I do hereby establish:

THE SELECT COMMITTEE FOR PERSONNEL REVIEW

The following members of the North Carolina House of Representatives are appointed as members of this Select Committee:

- Representative Carolyn B. Russell - Chair
- Representative Gregg Thompson
- Representative Joe Kiser
- Representative Gene Arnold
- Representative Russell Capps
- Representative Wilma Sherrill
- Representative Walter Church
- Representative Stan Fox
- Representative Flossie Boyd-McIntyre

Section 2. It shall be the duty of this Select Committee to examine witnesses documents and any other information as it may deem necessary concerning the application, administration, practice, or violation of Chapter 126 of the General Statutes of North Carolina or any other statutes or applicable law relative to the rights, duties and obligations of any employee of the State of North Carolina, including, but not limited to:



- (a) The examination of allegations of abuse in the administration of the State Personnel System in particular as it relates to Article 5 of Chapter 126 of the General Statutes.
- (b) The selective application of reductions in force to individual employees not otherwise subject to dismissal for cause or by exemption from the State Personnel Act.
- (c) The review of issues and policies being considered before the State Personnel Commission, Public Employees Committee, State Employees Association and the Office of State Personnel.
- (d) The development of legislation to reform, streamline, and make more efficient the State Personnel Act and its administration, with particular emphasis on departmental flexibility, the equitable treatment of state employees, downsizing personnel administration, and the integration of personnel policies more consistent with those employed in the private sector.

Section 3. The Select Committee shall submit an interim report to the 1997 second Session and a final report of its findings and recommendations to the 1999 Regular Session of the General Assembly by filing a final report of its findings and recommendations with the Speaker of the House of Representatives on or before December 31, 1998. The final report shall contain the findings, recommendations, and any legislative proposals of the Select Committee.

Section 4. The Select Committee is hereby vested with all of the authority set out in Article 5A of Chapter 120 of the General Statutes including, but not limited to, the authority to administer oaths, examine under oath, the issuance of subpoenas pursuant to N.C.G.S. 120-19.2(c), and to request data and information pursuant to N.C.G.S. 120-19.

Section 5. If requested by a witness or by a majority of the Select Committee, the Committee may meet in closed session solely for the purposes set out in N.C.G.S. 143-318.11(a)(1)(3)(6) and (7).

Section 6. The Select Committee is authorized to meet during sessions of the General Assembly, during recesses, and in the interim periods between sessions, upon the call of either of its' ~~co-chairs~~.

Weeks ~~Stricken @ direction of Speaker.~~

Section 7. Members of the Select Committee shall receive per diem, subsistence and travel allowance at the rate established in 120-3.1.

Section 8. The expenses of the Select Committee including per diem, subsistence, travel allowances, and contracts for professional or consultant services shall be paid upon the written approval of the Speaker pursuant to N.C.G.S. 120-32.02(c) and 120-35 from funds available to the House of Representatives for its operations.

Section 9. The members of this Select Committee serve at the pleasure of the Speaker of the House who may dissolve the Select Committee at any time before 31 December 1998, at which time this Select Committee shall dissolve.

Effective this 4th day of March 1997.



Harold J. Brubaker
Speaker of the North Carolina
House of Representatives

Attest:



Denise Weeks
Principal Clerk

MAR 4 1997



Office of the Speaker
North Carolina House of Representatives
Raleigh 27601-1096

HAROLD J. BRUBAKER
SPEAKER OF THE HOUSE
38TH DISTRICT

July 23, 1997

STATE LEGISLATIVE BUILDING
PHONE: (919) 733-3451

The Honorable Stanley H. Fox
North Carolina House of Representatives
1217 Legislative Building
Raleigh, North Carolina

Dear Stan:

I am in receipt of your resignation letter and wish to thank you for serving on the House Select Committee on Personnel Review. Your dedicated service is greatly appreciated.

I look forward to using your talents in other capacities during the 1997 Session of the General Assembly.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harold".

Harold J. Brubaker

HJB/bah

cc: Representative Carolyn Russell
Denise Weeks, House Principal Clerk





Office of the Speaker
North Carolina House of Representatives
Raleigh 27601-1096

HAROLD J. BRUBAKER
SPEAKER OF THE HOUSE
38TH DISTRICT

July 23, 1997

STATE LEGISLATIVE BUILDING
PHONE: (919) 733-3451

The Honorable John W. Hurley
North Carolina House of Representatives
1004 Legislative Building
Raleigh, North Carolina

Dear Bill:

I am pleased to appoint you to serve on the House Select Committee on Personnel Review, pursuant to the authority vested in me by Resolution 1 of the North Carolina House of Representatives, Session 1997, Section V, Rule 26 (a), and Article 5(A), Section 120-19.1 et seq., of the North Carolina General Statutes. Your appointment is effective immediately and will expire on December 31, 1998.

Your willingness to serve in this capacity is greatly appreciated, and I am confident you will have much to contribute to the House Select Committee on Personnel Review.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harold J. Brubaker".

Harold J. Brubaker

HJB/bah

cc: Representative Carolyn Russell
Denise Weeks, House Principal Clerk



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 1669

Short Title: Improve Disability Income Plan.

(Public)

Sponsors: Representatives Russell; and Hurley.

Referred to: Pensions and Retirement, if favorable, Appropriations.

May 28, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW GOVERNING THE DISABILITY INCOME
3 PLAN OF NORTH CAROLINA TO REQUIRE THAT THE DETERMINATION
4 OF DISABILITY BE MADE BY THE PLAN'S MEDICAL BOARD AND TO
5 MAKE CERTAIN OTHER CHANGES.

6 The General Assembly of North Carolina enacts:
7 Section 1. G.S. 135-102(d) reads as rewritten:
8 "(d) The Department of State Treasurer and the Board of Trustees shall designate
9 a one or more Medical Board Boards to be composed of not fewer than three nor
10 more than five 10 physicians not eligible for benefits under the Plan. physicians. It
11 shall be the responsibility of the participant to provide, at no cost to the Plan,
12 medical documentation of his or her disability sufficient to determine his or her
13 eligibility for benefits under the Plan. In disputed cases, other Other physicians,
14 medical clinics, institutions or agencies may be employed to conduct such medical
15 examinations and tests necessary to provide the Medical Board with clinical evidence
16 as may be needed to determine eligibility for benefits under the Plan. Physicians
17 retained upon the recommendation of the Medical Board to examine and report on
18 disability applicants and/or reexaminations of disability beneficiaries shall be paid fees
19 commensurate with the usual, customary, and reasonable charges, as determined by
20 the Medical Board, for such tests, examinations, procedures, and reports as the
21 Medical Board might request. The Medical Board shall investigate the results of
22 medical examinations, clinical evidence, all essential statements and certifications by
23 and on behalf of applicants for benefits and shall report in writing to the Board of
24 Trustees the conclusions and recommendations upon all matters referred to it."

1 Section 2. G.S. 135-103 is amended by adding a new subsection to read:
2 "(c) A person receiving benefits who returns to contributing membership service
3 in the Teachers' and State Employees' Retirement System or the Optional
4 Retirement Program shall not become an eligible participant, as defined in subsection
5 (a) of this section, and such person shall not be eligible for additional disability
6 benefits on account of becoming disabled for the further performance of the
7 subsequent State employment, while receiving benefits under this Article."

8 Section 3. G.S. 135-105 reads as rewritten:

9 "§ 135-105. Short-term disability benefits.

10 (a) Upon the application of a participant or of his or her legal representative or
11 any person deemed by the Board of Trustees to represent the participant, Any any
12 participant who becomes disabled and is no longer able to perform his usual
13 occupation may, after at least 365 calendar days succeeding his date of initial
14 employment as a teacher or employee and at least one year of contributing
15 membership service, receive a benefit commencing on the first day succeeding the
16 waiting period; provided the participant makes application for such benefit within 90
17 days after the onset of disability as determined under G.S. 135-104(a), after salary
18 continuation payments cease, or after monthly payments for workers' compensation
19 cease, whichever is later; provided further that the participant's employer and
20 attending physician Medical Board shall certify that such participant is mentally or
21 physically incapacitated for the further performance of duty, that such incapacity was
22 incurred at the time of active employment and has been continuous thereafter; but
23 the Medical Board shall not certify any participant as disabled who is in receipt of
24 any payments on account of the same incapacity which existed when the participant
25 first established membership in the Retirement System. provided further that the The
26 requirement for one year of contributing membership service must have been earned
27 within 36 calendar months immediately preceding the date of disability and further,
28 salary continuation used during the period as provided in G.S. 135-104 shall count
29 toward the aforementioned one year requirement. The Board of Trustees may extend
30 the 90-day filing requirement upon receipt of clear and convincing evidence that the
31 application was delayed due to the employer's miscalculation of the end of the 90-day
32 filing period. However, in no instance shall the filing period be extended beyond an
33 additional 90 days.

34 Notwithstanding the requirement that the incapacity was incurred at the time of
35 active employment, any participant who becomes disabled while on an employer
36 approved leave of absence and who is eligible for and in receipt of temporary total
37 benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter
38 97 of the General Statutes, will be eligible for all benefits provided under this Article.

39 (b) The benefits as provided for in subsection (a) of this section shall commence
40 on the first day following the waiting period and shall be payable for a period of 365
41 days as long as the participant continues to meet the definition of disability. However,
42 a disabled participant may elect to receive any salary continuation as provided in
43 G.S. 135-104 in lieu of short-term disability benefits; provided further, such election
44 shall not extend the 365 days duration of short-term payments. An election to receive

1 any salary continuation for any part of a given day shall be in lieu of any short-term
2 benefit otherwise payable for that day, provided further, any lump-sum payout for
3 vacation leave shall be treated as if the beneficiary or participant had exhausted the
4 leave and shall be in lieu of any short-term benefit otherwise payable.

5 (c) (See note) The monthly benefit as provided in subsection (a) of this section
6 shall be equal to fifty percent (50%) of 1/12th of the annual base rate of
7 compensation last payable to the participant prior to the beginning of the short-term
8 benefit period as may be adjusted for percentage increases as provided under G.S.
9 135-108 plus fifty percent (50%) of 1/12th of the annual longevity payment to which
10 the participant would be eligible, to a maximum of three thousand dollars (\$3,000)
11 per month reduced by monthly payments for Workers' Compensation to which the
12 participant may be entitled. The monthly benefit shall be further reduced by the
13 amount of any payments from the federal Veterans Administration, any other federal
14 agency, or any payments made under the provisions of G.S. 127A-108, to which the
15 participant or beneficiary may be entitled on account of the same disability. Provided,
16 that should a participant have earnings in an amount greater than the short-term
17 benefit, the amount of the short-term benefit shall be reduced on a dollar-for-dollar
18 basis by the amount that exceeds the short-term benefit.

19 (d) The provisions of this section shall be administered by the employer and
20 further, the benefits during the first six months of the short-term disability period
21 shall be the full responsibility of and paid by the employer; Provided, further, that
22 upon the completion of the initial six months of the short-term disability period, the
23 employer will continue to be responsible for the short-term benefits to the
24 participant, however, such employer shall notify the Plan, at the conclusion of the
25 short-term disability period or upon termination of short-term disability benefits, if
26 earlier, of the amount of short-term benefits paid and the Plan shall reimburse the
27 employer the amounts so paid.

28 (e) During the short-term disability period, a beneficiary may return to service for
29 trial rehabilitation for periods of not greater than 40 continuous days of service. Such
30 return will not cause the beneficiary to become a participant and will not require a
31 new waiting period or short-term disability period to commence unless a different
32 incapacity occurs. The period of rehabilitative employment shall not extend the
33 period of the short-term disability benefits.

34 (f) A participant or beneficiary of short-term disability benefits or his legal
35 representative or any person deemed by the Board of Trustees to represent the
36 participant or beneficiary, or the employer of the participant or beneficiary, may
37 request the Board of Trustees to have the Medical Board make a determination of
38 eligibility for the short-term disability benefits as provided in this section or to make
39 a preliminary determination of eligibility for the long-term disability benefits as
40 provided in G.S. 135-106. A preliminary determination of eligibility for long-term
41 disability benefits shall not preclude the requirement that the Medical Board make a
42 determination of eligibility for long-term disability benefits.

43 (g) Upon the application of a beneficiary or participant or his or her legal
44 representative or any person deemed by the Board of Trustees to represent the

1 beneficiary or participant. The the Board of Trustees may extend the short-term
2 disability benefits of a beneficiary or participant beyond the benefit period of 365
3 days for an additional period of not more than 365 days; provided the Medical Board
4 determines that the beneficiary's or participant's disability is temporary and likely to
5 end within the extended period of short-term disability benefits. benefits; provided
6 further, the beneficiary or participant makes application for such benefit within 90
7 days after the short-term disability period ceases, after salary continuation payments
8 cease, or after monthly payments for workers' compensation cease, whichever is later.
9 The Board of Trustees may extend this 90-day filing requirement upon receipt of
10 clear and convincing evidence that the application was delayed due to the employer's
11 miscalculation of the end of the 90-day filing period. However, in no instance shall
12 the filing period be extended beyond an additional 90 days. During the extended
13 period of short-term disability benefits, payment of benefits shall be made by the Plan
14 directly to the beneficiary."

15 Section 4. G.S. 135-111 reads as rewritten:

16 "§ 135-111. Applicability of other pension laws.

17 Subject to the provisions of this Article, the provisions of G.S. 135-9, entitled
18 "Exemption from taxes, garnishment, attachment, etc."; ~~G.S. 135-10, entitled~~
19 ~~"Protection against fraud"~~; and G.S. 135-17, entitled 'Facility of payment' shall be
20 applicable to this Article and to benefits paid pursuant to the provisions of this
21 Article."

22 Section 5. Article 6 of Chapter 135 is amended by adding a new section
23 to read:

24 "§ 135-115. Protection against fraud.

25 A participant, beneficiary, physician, or any other person who shall knowingly make
26 any false statement or shall falsify or permit to be falsified any record or records,
27 including medical, in an attempt to defraud the Plan shall be guilty of a Class 1
28 misdemeanor. Should any false statement or falsified record or records result in a
29 beneficiary receiving more than he or she would have been entitled to receive had
30 the records been correct, such overpayment of benefits may be offset against any
31 short-term or long-term benefit, any retirement allowance, return of contributions, or
32 any other right accruing under this Chapter to the same person, the person's estate,
33 or designated beneficiary. The Board of Trustees may contract with such private
34 investigators as it deems necessary to investigate reports of abuse or fraud. Private
35 investigators shall be paid fees commensurate with the usual, customary, and
36 reasonable charges for such investigations, as determined by the Board of Trustees."

37 Section 6. This act becomes effective October 1, 1998, and applies to
38 disability applications filed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 1468

Short Title: Study State Personnel System.

(Public)

Sponsors: Representatives Russell, Thompson; Hurley and Watson.

Referred to: Rules, Calendar and Operations of the House.

May 25, 1998

A BILL TO BE ENTITLED

AN ACT CREATING THE COMMISSION TO REVIEW AND RESTRUCTURE ADMINISTRATION OF THE STATE PERSONNEL SYSTEM AND APPROPRIATING FUNDS TO THE GENERAL ASSEMBLY FOR THAT PURPOSE.

The General Assembly of North Carolina enacts:

Section 1. The Commission to Review and Restructure Administration of the State Personnel System is created. The Commission shall consist of 16 members:

(1) Eight members appointed by the Speaker of the House of Representatives, including six Representatives and two members of the public at-large. The public members shall be knowledgeable of State personnel human resources matters.

(2) Eight members appointed by the President Pro Tempore of the Senate, including six Senators and two members of the public at-large. The public members shall be knowledgeable of State personnel human resources matters.

Section 2. The Speaker of the House of Representatives shall designate one Representative as cochair and the President Pro Tempore of the Senate shall designate one Senator as cochair.

Section 3. The Commission shall:

(1) Review the duties, functions, staffing, and organization of the Office of State Personnel.

- 1 (2) Examine ways to enhance the effectiveness of the Office of State
2 Personnel and to improve the administration of the State Personnel
3 Act.
4 (3) Review any other matter pertaining to the effectiveness and
5 efficiency of any aspect of the State personnel system, including
6 consideration of relevant issues pertaining to State retirement
7 disability benefits.
8 (4) Recommend comprehensive legislative proposals to enhance the
9 effectiveness of the Office of State Personnel and to improve the
10 administration of the State Personnel Act.

11 Section 4. The Commission shall submit a final report of its findings and
12 recommendations to the General Assembly on or before the first day of the 1999
13 Session of the General Assembly by filing the report with the Speaker of the House
14 of Representatives and the President Pro Tempore of the Senate. Upon filing its final
15 report, the Commission shall terminate.

16 Section 5. The Commission, while in the discharge of official duties, may
17 exercise all the powers provided for under the provisions of G.S. 120-19, and G.S.
18 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the
19 joint call of the cochairs. The Commission may meet in the State Legislative
20 Building or the Legislative Office Building.

21 Section 6. Members of the Commission shall receive subsistence and
22 travel expenses at the rates set forth in G.S. 120-3.1.

23 Section 7. The Commission may contract for professional, clerical, or
24 consultant services as provided by G.S. 120-32.02. The Legislative Services
25 Commission, through the Legislative Administrative Officer, shall assign professional
26 staff to assist in the work of the Commission. The House of Representatives' and the
27 Senate's Supervisors of Clerks shall assign clerical staff to the Commission or
28 committee, upon the direction of the Legislative Services Commission. The expenses
29 relating to clerical employees shall be borne by the Commission.

30 Section 8. When a vacancy occurs in the membership of the Commission
31 the vacancy shall be filled by the same appointing officer who made the initial
32 appointment.

33 Section 9. All State departments and agencies and local governments and
34 their subdivisions shall furnish the Commission with any information in their
35 possession or available to them.

36 Section 10. There is appropriated from the General Fund to the General
37 Assembly the sum of fifty thousand dollars (\$50,000) for the 1998-99 fiscal year for
38 the expenses of the Commission.

39 Section 11. This act becomes effective July 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 1469

Short Title: State Personnel Comm. Reorganized.

(Public)

Sponsors: Representatives Sherrill, Russell; Hurley and Thompson.

Referred to: State Government.

May 25, 1998

1 A BILL TO BE ENTITLED

2 AN ACT REORGANIZING THE STATE PERSONNEL COMMISSION AND
3 AUTHORIZING THE CHAIR OF THE STATE PERSONNEL COMMISSION
4 TO APPOINT PANELS OF ITS MEMBERS TO MAKE RECOMMENDATIONS
5 TO THE FULL COMMISSION REGARDING THE FINAL DECISION IN
6 CONTESTED CASES.

7 The General Assembly of North Carolina enacts:

8 Section 1. Effective March 31, 1999, G.S. 126-2 reads as rewritten:

9 "§ 126-2. State Personnel Commission.

10 (a) There is hereby established the State Personnel Commission (hereinafter
11 referred to as "the Commission").

12 (b) The Commission shall consist of ~~seven members who shall be appointed by the~~
13 ~~Governor on July 1, 1965, or as soon thereafter as is practicable. Two members of the~~
14 ~~Commission shall be chosen from employees of the State subject to the provisions of~~
15 ~~this Chapter; two members shall be appointed, of which one shall be an employee of~~
16 ~~local government subject to the provisions of this Chapter, from a list of individuals~~
17 ~~nominated by the North Carolina association of county commissioners; two members~~
18 ~~shall be individuals actively engaged in the management of a private business or~~
19 ~~industry; and one member shall be appointed from the public at large. Of the initial~~
20 ~~members of the Commission, two shall be appointed to serve for terms of two years,~~
21 ~~two shall be appointed to serve for terms of four years, and three shall be appointed~~
22 ~~to serve for terms of six years. Their successors shall be appointed by the Governor~~
23 ~~for terms of six years. Any vacancy occurring prior to the expiration of a term shall~~

1 ~~be filled by appointment for the unexpired term.~~ nine members who shall be
2 appointed as follows:

- 3 (1) Two attorneys licensed to practice law in North Carolina
4 appointed by the General Assembly. Each attorney shall serve
5 without the creation of a conflict of interest or the appearance of
6 impropriety. One attorney shall be appointed upon the
7 recommendation of the Speaker of the House of Representatives
8 and one attorney shall be appointed upon the recommendation of
9 the President Pro Tempore of the Senate. The initial members
10 appointed under this subdivision shall serve terms expiring June
11 30, 2005; the terms of subsequent appointees shall be six years.
- 12 (2) Two persons from private business or industry appointed by the
13 Governor, both of whom shall have a working knowledge of, or
14 practical experience in, human resources management. The initial
15 members appointed under this subdivision shall serve terms
16 expiring June 30, 2003; the terms of subsequent appointees shall be
17 six years.
- 18 (3) Two State employees subject to the State Personnel Act serving in
19 nonexempt positions, appointed by the General Assembly. One
20 employee shall serve in a State government position having
21 supervisory duties and one employee shall serve in a
22 nonsupervisory position. Neither employee may be a human
23 resources professional. The Speaker of the House of
24 Representatives shall recommend the supervisory employee and
25 the President Pro Tempore of the Senate shall recommend the
26 nonsupervisory employee. The initial members appointed under
27 this subdivision shall serve terms expiring June 30, 2001; the terms
28 of subsequent appointees shall be six years.
- 29 (4) Two local government employees subject to the State Personnel
30 Act appointed by the Governor, including one nonsupervisory
31 local employee appointed upon the recommendation of the North
32 Carolina Association of County Commissioners and one
33 supervisory local employee appointed upon the recommendation of
34 the North Carolina League of Municipalities. Neither local
35 government employee may be a human resources professional. The
36 initial members appointed under this subdivision shall serve terms
37 expiring June 30, 2003; the terms of subsequent appointees shall be
38 for six years.
- 39 (5) One member of the public at large appointed by the Governor.
40 The at-large member shall serve without a conflict of interest. The
41 initial member appointed under this subdivision shall serve for a
42 term expiring June 30, 2001.

43 (c) ~~Members of the Commission appointed after February 1, 1976, shall be~~
44 ~~appointed subject to confirmation by the General Assembly of North Carolina. If the~~

1 ~~General Assembly is not in session when an appointment is made, the appointee shall~~
2 ~~temporarily exercise all of the powers of a confirmed member until the convening of~~
3 ~~the next legislative session. If the General Assembly does not act on confirmation of a~~
4 ~~proposed member within 30 legislative days of the submission of the name, the~~
5 ~~member shall be considered confirmed. If the Governor does not appoint a new~~
6 ~~member within 60 calendar days of the occurrence of a vacancy or the rejection of an~~
7 ~~appointment by the General Assembly, the remaining members of the Commission~~
8 ~~shall have the authority to fill the vacancy. may serve no more than two consecutive~~
9 ~~terms. Appointments by the General Assembly shall be made in accordance with~~
10 ~~G.S. 120-121 and vacancies in those appointments shall be filled in accordance with~~
11 ~~G.S. 120-122.~~

12 (d) ~~The Governor appointing authority may at any time after notice and hearing~~
13 ~~remove any Commission member for gross inefficiency, neglect of duty, malfeasance,~~
14 ~~misfeasance, or nonfeasance in office. cause.~~

15 (e) ~~Members of the Commission who are employees of the State subject to the~~
16 ~~provisions of this Article State or local government employees subject to the State~~
17 ~~Personnel Act shall be entitled to administrative leave without loss of pay for all~~
18 ~~periods of time required to conduct the business of the Commission.~~

19 (f) ~~Four~~ Six members of the Commission shall constitute a quorum.

20 (g) The Governor shall designate one member of the Commission as ~~chairman-~~
21 ~~chair.~~

22 (h) The Commission shall meet quarterly, and at other times at the call of the
23 ~~chairman. chair.~~

24 Section 2. Effective March 31, 1999, Article 1 of Chapter 126 of the
25 General Statutes is amended by adding a new section to read:

26 "§ 126-4.1. Commission panels may recommend final agency decisions.

27 (a) The State Personnel Commission ("Commission") may make a final agency
28 decision in a contested case brought under Article 3 of Chapter 150B of the General
29 Statutes upon the recommendation of a panel of its members appointed by the Chair.

30 (b) For contested case purposes, the Chair of the Commission may appoint panels
31 of four members, with three panelists constituting a quorum of the panel. The Chair
32 shall make every effort to provide that each category of Commission membership
33 enumerated in G.S. 126-2(b) shall be represented on the appointed panels.

34 (c) When a panel hears and makes a recommendation in a contested case, that
35 recommendation shall then be referred to the full Commission. Upon referral, the
36 full Commission may either:

37 (1) Accept the recommendation of the panel and incorporate the
38 panel's recommendation as the Commission's final decision; or

39 (2) Reject the recommendation of the panel and make a final decision
40 upon consideration by the full Commission."

41 Section 3. G.S. 120-123 is amended by adding a new subdivision to read:

42 "(68) The State Personnel Commission."

1 Section 4. The terms of members of the State Personnel Commission
2 who were appointed pursuant to G.S. 126-2 as it was in effect prior to March 31,
3 1999, shall expire on March 30, 1999.

4 Section 5. This act is effective when it becomes law.

